APPLICATION OF CATHARINE ANN MESLE TO THE APPELLATE JUDICIAL COMMISSION FOR THE JUDGE DANDURAND VACANCY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

RESPONSES TO THESE QUESTIONS WILL BE MADE PUBLIC IF THE APPLICANT IS NOMINATED FOR THIS VACANCY

1.	Present principal occupation or title:
	Circuit Judge, Division 7
	16 th Judicial Circuit of Jackson County, Missouri

Are you at least 30 years of age? Yes (x) No ()

- /
- 3. (a) How many years have you been a citizen of the United States?

63 years

2.

(b) How many consecutive years immediately preceding your application have you been a qualified voter of Missouri?

42 years

4. State the date you were admitted to The Missouri Bar and whether your license is in good standing. If not, explain in detail.

September 1972. My license is in good standing.

5. List any other states, courts, or agencies in which you are licensed as an attorney.

U.S. District Court, Western District of Missouri 8th Circuit Court of Appeals

September 1972 September 1973

6. (a) State the name and address of all colleges and universities attended, other than law school, together with the dates and degrees received.

Graceland College/University; Lamoni, Iowa

1964 - 1965

University of Missouri-Columbia; Columbia, Missouri 1966 - 1968 Degree Received - Bachelor of Arts in History and Political Science

(b) List/describe any college or university activities, scholastic achievements and other awards or honors you think are relevant to the commission's decision.

Graceland University

Freshman Class Treasurer Sariah House Social Chair House Council Student Senate

University of Missouri-Columbia

Women's Residence Hall Association Council
Outstanding Association for Women Students Board
Dorm Floor "House" President
"Big Sister" Award
President, Residence Hall Floor Council
Member, Dorm Council

7. (a) State the name and address of all law schools attended together with the dates and degrees received.

University of Missouri-Kansas City; Kansas City, Missouri 1969 - 1972

Degree Received - Juris Doctor, with Distinction

(b) List/describe any law school activities, scholastic achievements and other awards or honors you think are relevant to the commission's decision.

Dean's List all semesters
Thomas E. Deacy Trial Practice Award
Moot Court Board
Order of the Bench & Robe Honor Society
UMKC Law Review Senior Staff
American Jurisprudence Award in Remedies
Association of Women Law Students
Phi Delta Phi Legal Fraternity

8. State, in chronological order (starting with the earliest employment) (a) significant non-law-related employment prior to law school and (b) all employment from the beginning of law school to the present. To the extent reasonably available to you, include the name and address of each employer and the dates of employment, and, for legal employment, describe the positions you have held, e.g., associate, partner, law clerk, general counsel.

Mid-Continent Library

summers 1968 - 1970

Read book reviews, recommended books to research librarian, performed clerical functions and processed book orders

Wayne Starr Law Firm

summer clerk 1973

Legal research and writing, drafted pleadings, researched land records

UMKC Law Library

Circuit Judge

1970 - 1971

Performed general clerical work, assisted law students and attorneys

Achtenberg, Sandler and Balkin, P.C. Law Clerk Associate Attorney	1971 - 1976 1971 - 1972 1972 - 1976
Southwestern Bell Telephone Co.	1976 - 1993
Staff Attorney - Kansas City	1976
Staff Attorney, labor and department group	1981
Promoted to "Attorney-Business"	1982
"Supervising Attorney-Kansas City"	1983
Promoted to "Senior Attorney-Missouri"	1992
Lathrop & Gage LP	1993 - 1999
Of Counsel	1993 - 1994
Member of the Firm	1994 - 2000
16 th Judicial Circuit Court	2000 - present

9. If you were a student at any school from which you were suspended, placed on probation, or expelled by school authorities, for any reason, describe the circumstances.

I was on academic probation for one semester at the University of Missouri-Columbia. German was my undoing!

10. Describe the nature of your experience in trial and appellate courts and explain how they demonstrate the quality of your legal work. (You either may take as much space as you need here or attach your response on separate sheets). Include in your response:

Responses to Question 10, including subparts a), b), and c) are attached hereto as "Attachment A"

- a) **Appellate Experience:** Please include a representative list of cases you have briefed and/or argued (if you are a judge, include representative cases from your practice prior to your judicial appointment) including, to the extent reasonably available to you, the style, date, and court and, if published, the citation; identify the client(s) you represented and opposing counsel; give a one-paragraph description of the case and your role.
- b) **Trial-Level Experience:** Please include a representative list of cases and/or administrative hearings you have handled (if you are a judge, include representative cases from your practice prior to your judicial appointment) including, to the extent reasonably available to you, the style, date, and court; identify who you represented and opposing counsel; state whether the case was disposed of following a jury trial, bench trial or at what other stage; give a one-paragraph description of the case and your role.
- c) **Judicial Experience:** If you are a judge, commissioner, or are serving or have served in other judicial capacity, please describe the nature and extent of your judicial responsibilities, including the dates you have served as a judge at each level, the types of dockets you have handled, and any special expertise you have developed that you believe is relevant to your qualifications for the position for which you are applying.
- 11. Describe any additional legal experience that you believe may be relevant to the decision of the commission (e.g., work as a law professor, in government, as corporate or other legal counsel).
 - Throughout my career I have prepared seminar materials and spoken at CLE seminars; mentored law students through Inns of UMKC; mentored lawyers through Inns of Court; prepared written materials for, and spoken to, parents, high school students and community organizations. In addition I have presented all or portions of extended training to educators at UMKC, Central Missouri State University, Truman University and Shawnee Mission School District, on a broad range of topics including the Family Educational Rights and Privacy Act, ("FERPA"), 20 U.S.C.A. § 1232(g); Family and Medical Leave Act, ("FMLA"); the Americans with Disabilities Act, ("ADA"), 42 U.S.C. § 12101 et seq; the Rehabilitation Act of 1973, 29 U.S.C. § 706; Title IX of the Education Amendments of Education act of 1972, ("Title IX"), 20 U.S.C. § 1681 et seq.; and the Age Discrimination in Employment Act, ("ADEA"), 29 U.S.C. § 621 et seq.
- 12. List all bar associations and other professional societies of which you are a member, with any offices held and dates.

Missouri Bar Association
Co-Chair Gender and Justice Committee 2001 - 2003

Kansas City Metropolitan Bar Association	
Executive Committee	1989-1992; 1993-1997
Past President	1998
President	1997
President Elect	1995
Secretary	1994
Treasurer	1993
Strategic Planning Committee	2008 - present
Past Presidents' Club	1998 - present
Eighth Circuit Conference Planning Committee	1999
Labor Law Committee	1979-1981
Chair Bench Bar Committee	1996
Chair Education Law Committee	2000
Vice-Chair Women in the	
Profession Committee	1995
Chair House Counsel Committee	1986
Dedication Committee, C.E. Whittaker	
Courthouse	1998
Wanna Cita Dan Farm lating Daniel of Directors	1007 1000
Kansas City Bar Foundation Board of Directors	1997 - 1999
Nominating Committee Chair	1997
Missouri Institute for Justice	2005 - present
President	2006 - 2007
Missouri Bar, Board of Law Examiners	1999 - 2001
Appointed by the Missouri Supreme Court;	
responsible for determining qualifications for	
admission to the Missouri Bar.	
Association for Women Lawyers	1976 - present
Board 1995	
	4000 0000
Lawyer's Association of Kansas City	1983 - 2000
Executive Board	1984 - 1987
Local Aid of Wastern Misseyri	1007 1007
Legal Aid of Western Missouri	1987 - 1997
Board	2000
Nominating Committee for Executive Director	2008

Fellows of the American Bar Foundation

13. List any professional articles or books authored by you that have been published or any special recognition or award of a professional nature you have received.

Co-authored *Drugs in the Work Place-A Manual for Small & Medium Sized Businesses* for the Greater Kansas City Metropolitan Bar Association in conjunction with the Greater Kansas City Chamber of Commerce, 1994.

Co-authored *Employment Discrimination: Alternatives to Title VII* UMKC Law Review, Spring, 1975.

I have presented twice at the Missouri Judicial College:

"Litigating Missouri Human Rights Act Cases in Missouri Courts" (after *State ex rel Diehl v. O'Malley*); August 4, 2003 and Oct. 27, 2003; with Judge Lisa Van Amberg. Program focused on the impact of *Diehl's* ruling that Missouri Human Rights Acts cases are subject to trial by jury. Materials included discussion as to distinctions between Missouri Human Rights Act and similar federal statutes.

"Contempt"; August 10, 2005; with Judge Forest Hanna. Program focused on the differences between civil and criminal contempt and the differences between direct and indirect contempt. We discussed the rights available under each of the different forms of contempt. We discussed specific language that must be included in the contempt order as well as related due process issues.

UMKC Law School "Lifetime Achievement Award"	2006	
"Patrick Kelley Distinguished Service" Award,		
UMKC Law Alumni Association	2003	
"Michael Coburn Professional Excellence" Award,		
Inns of Court	2001	
Kansas City Metropolitan Bar Association		
"President's Award"	1991	
UMKC Law Alumni Association		
"Law Alumni of the Year" Award	2000	
Association for Women Lawyers		
"Woman of the Year" Award	1999	
Honorary Editor, UMKC Law Review	1998 - 1999	
Ingram Magazine's "Players"	1998	
UMKC Law Foundation "Best Friend" Award	1997	
K.C. Business Journal, "Top 25 Kansas City Attorneys"	1994	

14. Describe your community activities, including any organizations not listed elsewhere with which you are affiliated.

UMKC Trustees 1998 – 2009

I first became a member of the UMKC Trustees as President of the UMKC Law Foundation. When I became outside counsel for the Curators in a number of cases in U.S. District Court I was asked to return to the Trustees as a Community Representative. I have served in that capacity since that time. In that capacity I have been assigned to leadership positions in a variety of committees. My committee responsibilities have given me the opportunity to participate in discussions concerning whether to relocate the law school, financial challenges of UMKC Law school, strategic planning for the law school and the university. I have also participated in meetings not only with candidates for the Dean of UMKC Law School but also candidates for other leadership positions. I have held the following positions with the UMKC Trustees:

Executive Committee
Co-Chair Trustee Scholars Committee
Member of the "Blue Ribbon Task Force" Executive Committee as
Chair of the UMKC Law School Subcommittee
Chair Stewardship Committee
Vice-Chair Development
UMKC Law School Strategic Planning Committee Chair
UMKC Athletics Committee
Committee to Determine Whether to Relocate the Law School

Park University Trustees

1999 - 2009

In 1999 President Don Breckon recruited me to serve on Park University's Board of Directors. I immediately became involved with the Educational Policy Committee and became Chair of that committee. As Chair of the Educational Policy Committee I was a member of the Executive Committee. I was also involved with matters concerning promotion and tenure, policies concerning sabbatical leaves, discussions about curriculum, and meetings with key leaders of the administration and the faculty. In 2003 I agreed to serve on the Trusteeship Committee and became the Chair of the Trusteeship Committee 2 years later. The focus of the Trusteeship Committee is on the management and leadership of the trustees. We recommend policies to the Park Trustees in areas including conflicts of interest, board leadership and the roles of various volunteer and staff leaders. In that position I worked closely with the President of the Board and the key academic leadership of Park. In addition, in that position I co-chaired the Shared Governance Committee. That committee was focused on transparency is key areas of budget, curriculum, and other sensitive issues impacting the university. I have held the following positions at Park University:

Executive Committee
Educational Policy Committee, 6 years, Chair 2 years
Secretary to the Board
2004 - 2005

Trusteeship Committee, 6 years, Chair 3 years.	2003-2009
Emeritus Trustee	2009
Co-Chair Shared Governance Committee	2008
Keynote Speaker Commencement Ceremony	2001

UMKC Law Foundation

1990 - present

UMKC Law Foundation and the UMKC Law Alumni Association have now been merged into a single umbrella organization. Both organizations exist to support UMKC Law School. Because of my membership on the UMKC Trustees I have occasionally served roles which support both the UMKC Trustees and the UMKC Law School. I have held the following positions with the UMKC Law Foundation and the UMKC Alumni Association.

President	1994 - 1996
Vice President	1992 - 1994
Secretary	1990 - 1992
Executive Committee	1987 - 1997
Long Range Planning Commission	
Dean's Search Committee	1995; 2005
Emeritus Trustee	2000 - 2009
UMKC Law Alumni Association	1988 – present
Board member	1997 - 1999

Ross T. Roberts Inns of Court

1999 - 2008

Inns of Court is sponsored by the KCMBA. The purpose of the Inns program is the train lawyers, early in their careers, in the skills essential to succeeding as trial attorneys. I began working as a Master in about 1999 and continued as a Judicial Master on my appointment to my current position. Masters include experienced trial lawyers who represent plaintiffs and defendants. We divide responsibility so that each Master is focused on one area of a trial. My focus was on how to present and opening statement. Each of us would critique attorneys who were assigned to present an opening statement, a closing argument, or handle some other aspect of trial practice. I served as a Master/Judicial Master for 7 years

Inns of UMKC 2003 - present

Inns of UMKC was created to mentor UMKC law students, to provide them the opportunity to interact with judges, practicing attorneys and professors. Meetings are held at one of the courthouses, at a law firm or at the home of a Master. I have worked as a Judicial Master with the Charles Evans Whittaker Inns since the Inn program was origination.

Diastole-Hospital Hill, Inc.

1998 - present

The Mary Clark and E. Grey Dimond Scholars Center is a facility located on Hospital Hill in Kansas City. The Board of Diastole-Hospital Hill, Inc. is responsible for all aspects of the Scholars Center. I have served on the Board since 1998.

Pembroke Hill Parents' Association

1998 - 2002

During the years my daughter was in upper school at Pembroke, I served in a variety of leadership roles. While it was a privilege to serve as Chair of the Upper School Council, most of my favorite work involved planning meetings with parent and students on issues such as character development, drugs and alcohol and teen driving. I held the following positions with the Pembroke Hill Parents' Association:

Executive Committee Upper School Council Chair Parent Awareness – Upper School Chair

Harry S. Truman Children's Neurological Center.

Harry S. Truman Children's Neurological Center is a residential care program for children and youth with multiple disabilities. The work of the board included significant responsibility for developing policies, monitoring budget and selecting employees for key leadership positions. I held the following positions with Harry S. Truman Children's Neurological Center:

Board	1976 – 1980 (app)
President	1978 - 1979

SHARE, Inc.

SHARE, Inc. is a nonprofit organization sponsored by the Community of Christ Church. During the years I worked with SHARE we engaged in a variety of social and community programs including literacy programs, a food pantry, and services for victims of violence. During my tenure as President of SHARE we began the first steps toward the creation of SAFEHAVEN, a shelter for victims of domestic violence, located in the Northland. SAFEHAVEN has merged into, and become a part of SYNERGY Service. I have held the following positions with SHARE.

Board	1986 – 1992 (app)
President	1989 - 1990

1994

During my employment with Southwestern Bell, I was asked to work with the Kansas City Chamber of Commerce to develop a program for small businesses designed to help them deal with all work related problems associated with drug and alcohol abuse, including absenteeism, unsafe work environment and similar issues. In that capacity I also coordinated with the KCMBA to develop programs which were beneficial to both organizations. I prepared materials utilized by both organizations as a member of the "Drugs Don't Work" Steering Committee.

15. Do you now hold or have you ever held an elective or an appointive public office or position? If yes, provide details.

Yes.

City Trust. Board Member. Appointment by Mayor.

1996 - 2000

Board evaluated and approved expenditures of private funds for specified Kansas City fountains, statues and green spaces.

Jackson County Economic Development Commission. 2000 - 2001 Appointed by County Executive.

I was a member of the commission. The Jackson County Economic Development Commission was organized to examine rural economic development opportunities. The committee traveled to various areas of Jackson County and made recommendations for development to the Jackson County Executive. I served on the commission from 2000 until 2001. I resigned on my appointment to the Bench.

Kansas City Civil Rights Board Co-Chair. Appointed by the Mayor. 1984 - 1987

The Kansas City Civil Rights Board was responsible for hearing claims of discrimination in employment and housing filed by individuals against landlords and employers pursuant to Kansas City's Civil Rights Ordinance.

16. Provide the branches and dates of (a) military service or (b) other public service not otherwise disclosed in this application. If discharged from the military, state whether the discharge was other than honorable.

None.

17. State whether you are able, with or without a reasonable accommodation, to perform the essential functions of being an appellate judge, including participating in oral argument; performing legal research; communicating clearly and effectively, both orally and in writing; supervising the lower courts, serving on court committees and performing other administrative functions; and expeditiously deciding issues coming before the court.

Yes.

18. Were you ever refused admission to the bar of Missouri or the bar of another state or the federal courts? If yes, provide details.

No.

19. Have you ever been disciplined, admonished or cited for breach of ethics or professional conduct by the Supreme Court of Missouri or by any court or bar association or committee thereof? If yes, provide details.

No.

- 20. If you are or were a member of the judiciary of the State of Missouri, please state:
 - a) Whether an order of discipline ever has been entered against you by the Supreme Court of Missouri for breach of the Code of Judicial Conduct or the Canons of Judicial Conduct. If yes, provide details.

No.

b) Whether a reprimand or admonition ever has been entered against you by the Commission on Retirement, Removal and Discipline for any of the causes specified in Supreme Court Rule 12.07. If yes, provide details.

No.

21. Have you have ever been held in contempt of court? If yes, provide details.

No.

22. Have you ever been sued by a client or been a party to any other litigation, other than as guardian ad litem, plaintiff ad litem, or defendant ad litem?

If your answer is yes, state the style of the case, where it was filed, and explain in detail. If you are a judge and you have been sued in your judicial capacity, list

only those cases where you are or were other than a nominal party.

Yes. In my judicial position I have been sued twice. The only other proceedings in which I have been involved related to dissolution of marriage proceedings.

John C. Nimmer v. Hon. Ann Mesle, Case No. 4:01CV0352.

Mr. Nimmer challenged my jurisdiction and the jurisdiction of the Jackson County Circuit Court to issue a protective order against him as he is a resident of Omaha, Nebraska and claimed to have had no contacts with complaining party within the state of Missouri. Prior to his retirement in late 2000, Judge William Mauer, my predecessor in Division 7, ruled that the Court had jurisdiction. Mr. Nimmer filed a Writ of Prohibition against Judge Mauer. The writ was denied by the Western District Court of Appeals. The case was scheduled for a hearing before me shortly after Judge Mauer's retirement. Prior to the scheduled hearing on July 9, 2001, Mr. Nimmer filed suit in the U.S. District Court for the District of Nebraska. He requested a Temporary Restraining Order, which was denied and his Complaint was dismissed. He appealed to the Eighth Circuit. His appeal, his petition for rehearing and his petition for rehearing en banc were all denied.

Jack Barr v. Hon. Ann Mesle, Case No. 0516-CV08417.

Mr. Barr filed his claim seeking an injunction against multiple parties, including then Jackson County Prosecutor, Michael Sanders; then Assistant Prosecutor, Jim Kanatzar; Assistant Prosecutors Ted Hunt and Jo Leigh Wagoner; and then Jackson County Executive, Katheryn Shields. The request for an injunction arose after I denied Mr. Barr relief in a case he filed *pro se* wherein he sought an order of the Court compelling Michael Sanders to file criminal charges against a man he claimed sexually assaulted his daughter. The injunction was specially assigned to the Honorable Stephen K. Wilcox who ultimately dismissed the case with prejudice.

23. Have you ever been convicted or received a suspended imposition of sentence for a felony or misdemeanor in state, federal or military court? (*Note that this question does not require that traffic offenses or other infractions be listed.*)

No.

If your answer is yes, state the style of the case, where it was filed, and explain in detail.

N/A

24. Are you delinquent in the payment of any federal, state, county or city taxes? If yes, provide details.

No.

25. You must attach to this application at least one, but not more than three, writing samples that comply with the requirements set out in the instructions for applicants.

Three writing samples are attached.

26. List/describe any additional honors or awards you have received, activities you have performed, or any other information not set out above that demonstrates the quality of your work as an attorney or that you otherwise believe is relevant to the commission's decision.

See answer to Question 11.

Please list the names of *five* persons whom you will ask to provide letters of reference for you with respect to your judicial qualifications. Do **not** list as a reference a judge of the court involved. As to each of the (5) references, **please provide name**, **title**, **mailing address**, **telephone and e-mail address**. *Please note that it is your responsibility to contact your references*, although if you intend to use as a reference a federal judge or other individual who only can provide a reference upon a specific request by the interviewing authority, please advise the commission and it will send that reference such a request. As to all references, it is your responsibility to see that they send the requested letters in a timely manner.

Professor David Achtenberg

UMKC School of Law 5100 Rockhill Rd., Kansas City, MO 64110-2497

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Dana Cutler James W. Tippin & Associates 21 W. Gregory Blvd. Kansas City, MO 64114-1105

Telephone: 816-471-8575; email: tcutler@tippinlawfirm.com

Terry Satterlee Shook, Hardy & Bacon LLP 2555 Grand Blvd. Kansas City, MO 64108-2613

Telephone: 816-474-6550; email: tsatterlee@shb.com

Roger Hershey General Counsel, Park University 8700 NW River Park Drive Parkville, MO 64152

Telephone: 816-842-3636; email: roger.hershey@park.edu

Denise LeBow MSW, Licensed Social Worker, 229 Ward Parkway, Suite 301(a) Kansas City, MO 64112 Telephone: 816-820-2799; email: lebowdh@aol.com

Provide your references with the attached Guidelines for References. The commission must receive your letters of reference, **via e-mail**, to WDjudgevacancy@courts.mo.gov, by the date indicated in the Instructions to Applicants.

Attachment A Responses to Question 10

Beginning in 1972 I was employed with Achtenberg, Sandler & Balkin. The firm specialized in federal litigation, civil rights, construction and surety law and banking law. The firm represented individuals in employment, student rights and academic freedom litigation. We represented all sides in construction and surety law. Irving Achtenberg and Bernie Balkin taught me how to research the law, and, more important, how to analyze problems and brief complex issues. In part because our firm had an excellent reputation handling federal litigation, including employment cases, I was recruited to work for Southwestern Bell Telephone Company in 1976. My initial assignment was focused on labor and employment law. My work expanded to include an increasing focus on business, antitrust and regulatory litigation. As a result, I expanded my knowledge in these areas and again became focused on complex discovery issues, research and writing complex legal issues and negotiating, with others, the challenging task of separating the Bell System assets, lines of business and personnel. When I moved to Lathrop & Gage, my work was primarily directed to federal litigation and again involved extensive research and writing. In addition, I prepared educational materials and presented client seminars with a goal toward teaching educators, business and non-profit clients the law governing their relationships with their employees, students and faculty. I was fortunate to have wonderful clients and colleagues. My clients included educational institutions and medium and small business. I had primary responsibility for the cases I handled at Lathrop including litigation concerning employment discrimination, disability law, hostile work environment, academic freedom, and related issues. While a significant amount of my time and energy involved defending my clients in litigation, I also was in a position to work with my clients in minimizing the risk of litigation through extensive management training and advice.

Throughout the 30+ years of my legal career, I have been fortunate to have had the opportunity to develop strong research, writing and analytic skills. I have endeavored to combine my legal and analytic skills with respect for people and for the law that supports the best interests of all who appear in my court.

a) Appellate Experience: Representative cases.

MIJ v. AT&T, 708 F.2d 1081 (7th Cir. 1982); Cert Denied, 474 U.S. 891 (1983).

Represented Southwestern Bell.

Judge Cudahy.

I do not recall information about counsel for MIJ.

MIJ and AT&T engaged in litigation for a number of years as a result of claims that AT&T and the Bell subsidiaries engaged in unfair business practices. After extensive discovery, the parties entered into a 1982 "Consent Decree." This agreement resulted in the divestiture by AT&T of the local operating companies and a complete restructuring of

telecommunications nationwide. I was one of a team of attorneys representing the interests of SBC through coordinating discovery, performing legal research and preparing papers for executives in the legal department.

Rogers v. Curators of the University of Missouri, 135 F.3d 1216 (8th Cir. 1998).

Represented the Curators.

Judges McMillian, F. Gibson and J. Gibson.

Opposing counsel, Thomas Jones and Lynn Bratcher.

8th Circuit affirmed dismissal of litigation, pursuant to Federal Rule 41(b) of the Federal Rules of Civil Procedure based on conduct of plaintiff (not counsel) throughout the two years in which the case proceeded. Plaintiff's complaint alleged the University failed to adequately accommodate his disabilities after he sustained a serious head injury. He alleged violations of the Americans with Disabilities Act of 1990, 42 U.S.C. § 1210 et seq., and the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq. Discovery included depositions of faculty, psychologists and other health professionals. My own research included consulting with leading educators working on devising testing procedures that fairly tested students with serious disabilities. I was lead trial and appellate counsel with primary responsibility for the all aspects of the case.

Gumbhir v. Curators of the University of Missouri, 157 F.3d 1141 (8th Cir. 1998).

Represented Curators.

Judges Beam, Loken and Murphy.

Opposing counsel, Kelly McClelland.

Plaintiff was a professor at UMKC who alleged age, race, national origin and disability discrimination, as well as retaliation. Dr. Gumbhir had significant health issues which he alleged impacted his activities at UMKC. He also alleged that he was subject to discrimination as a result of his national origin. The case involved the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Missouri Human Rights Act and related statutes. The jury found in favor of the Curators in all counts except retaliation and awarded Plaintiff \$4,000 damages plus attorney fees. Both parties appealed. The 8th Circuit affirmed the trial court while simultaneously reducing plaintiff's attorney fees. I was lead counsel with responsibility for all aspects of the trial and appeal.

Tim Lam v. Curators of the University of Missouri-Kansas City, 122 F.3d 654 (8th Cir. 1997).

Represented the Curators.

Judges Beam, Henley and Loken on appeal.

Opposing counsel, John Kurtz and Jane McQueeny.

Jury returned a verdict in favor of Plaintiff. 8th Circuit affirmed summary judgment for the Curators on Plaintiff's quid pro quo claim and reversed the order denying the Curator's motion for judgment as a matter of law on Plaintiff's hostile education environment claim. The court held that a professor's off-premise assault on a student did not state a claim under Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688, and reversed the denial of summary judgment on the student's claim of hostile environment. Lead trial and appellate counsel with primary responsibility for all stages of the case.

Lidge-Myrtil v. Deere & Co., 49 F3d 1308 (8th Cir. 1995).

Represented Deere & Co.

Judges Lay, Beam and Wollman on appeal.

Opposing Counsel, Aunna Peoples.

Summary judgment in favor of employer affirmed by the 8th Circuit. Employee filed suit as a result of employer's failure to promote her. The trial court held that the employee failed to present sufficient evidence that the employer's proffered reason for decision not to promote was pretextural. The 8th Circuit affirmed. I was lead trial and appellate counsel with primary responsibility for all aspects of the case.

Davis v. Fleming Companies, 55 F.3d 1369 (1995).

Represented Fleming Companies, Inc.

Judges McMillian, Heaney, Arnold on appeal.

Opposing counsel, Michael Manners.

Employee alleged retaliation after he made a complaint to management about possible sexual harassment of a co-worker. The 8th Circuit reversed the decision of the District Court granting summary judgment for Fleming and remanded case for trial. Core issue was whether there was a genuine issue of fact concerning whether there was sufficient evidence of a non-retaliatory, legitimate business reason for Davis' termination, to proceed to trial. On remand the parties agreed to submit the matter to arbitration before Rich Ralston. After a 3-day hearing Rich Ralston ruled in favor of Fleming. I was lead counsel responsible for all aspects of the case.

UBIC v. Catalytic Construction Co., 533 F2d 469 (9th Cir. 1976).

Second Chair to Bernard Balkin, representing UBIC.

Judges Wallace, Trask and Kennedy on appeal.

Opposing counsel, Paul Klankenstein.

After contractor failed to make payments to subcontractors on a timely basis, suit was

filed under the Miller Act, 40 U.S.C. § 270b. My responsibilities included researching and drafting memos for lead counsel on the applicability of the Assignment of Claims Act, 31 U.S.C. §203, ad 41 U.S.C. §15 to a case involving the Atomic Energy Commission.

State ex rel. Grain Valley v. Public Service Com., WD No. 41020, 1990.

Represented Intervenor-Respondent/SBC.

Do not recall judge.

Opposing counsel, Jeremiah Finnegan.

Petition alleged Grain Valley discriminated against the city's customers in setting rates for telecommunications services. The dispute largely resulted from the practice of SBC to charge rural communities higher rates for telecommunications than charged to rural communities for the same services. The justification was that because urban communities are densely populated the cost for services, per customer, is significantly less than the cost for the same services provided in rural areas. The court held that the case was improperly dismissed and that the services provided to Kansas City and Grain Valley customers were the same.

Marilyn Shapiro v. Columbia Union National Bank and Trust Company, et al., 576 SW2d 310 (Mo. Banc 1978).

Represented Marilyn Shapiro.

Missouri Supreme Court en banc.

Opposing Counsel, Guy Magruder and Jackson Wright.

Plaintiff, a UMKC law student, was denied the opportunity to apply for the benefits of the Victor Wilson Scholarship, for the reason based on her sex. The questions presented were whether a male-only scholarship violated the Equal Protection Clause of the U.S. Constitution and 42 U.S.C.A 1983, and whether the University was involved with the administration of the Trust as to rise to the level of "state action." UMKC and Columbia Union National Bank and Trust Company both presented evidence that it was the bank rather than the university that determined which law students would receive the benefits of the scholarship. The trial court dismissed the suit for failure of plaintiff to state a cause of action. The Missouri Court of Appeals reversed the Trial Court and held the petition stated a claim of sexual discrimination in violation of the Fourteenth Amendment (unpublished opinion). The Missouri Supreme Court held that there was not sufficient state action and that plaintiff's claim failed. I shared with Stephen Borel the responsibility for all of the pleadings and argument.

b) Trial and Administrative Experience

See cases listed above. In addition:

Jeff Airington v. Harding Glass, Inc., Case No. 99-1217-CV-W-5.

Mediator.

Counsel for parties, R. Rieschel and Dan Boatright.

Successfully mediated employment case as outside mediator selected through the U.S. District Court's Early Assessment Program. August 2000. Do not recall details of dispute.

Stevens, et al. v. Sprint Communications Co., L.P., Case 57Y1810018395. (AAA)

Served as "Party arbitrator" on panel with Judge Gene Martin and Bob Cotter. Counsel for parties, Richard Miller and Mark Foster.

The case arose as a result of a business dispute between the parties over business customers. The hearing lasted five+ day arbitration in approximately 1999. Case included evidentiary and summary judgment proceedings.

Curators of the University of Missouri v. Olive K. Deal, et al., Case No. 98C078635.

Represented the Curators.

Judge Ellen Roper.

Opposing Counsel, Heywood "Woody" Davis, Steve Millin.

Lead counsel in dispute concerning distribution of moneys willed by John Deal to the Curators of the University for student scholarships. Surviving spouse challenged decedent's will. Issues involved the competing rights of surviving spouse and Trust. Case successfully resolved during discovery in 1999. I was technically lead counsel but I worked closely with Maurice O'Sullivan, who has significant expertise in probate and trust law.

In re Southwestern Bell Telephone Company and Communications Workers of America, AAA Case No. 71-300-00126-91 (Grievance of Frances Vunovich)

Represented SBC.

Do not recall arbitrator.

Opposing Counsel, Sharon Ballin.

The union challenged the decision of SBC to demote grievant for poor performance. After a two day hearing the arbitrator entered judgment for the company in mid 1970's. This case is one of, perhaps, as many as 50 arbitrations in which I was lead counsel on behalf of SBC. Hearings were generally two to four days in length, and related to the

interpretation of the contract between SBC and the CWA and/or disciplinary disputes. In each case I presented opening statement and closing argument, examined all or most of the witnesses. I researched and prepared short briefs in contract interpretation cases. Bill Franz, attorney for the union, represented the union in most of the hearings.

AT&T, et al. v. American Business Lists, U.S. District Court for Nebraska.

I do not recall judge.

Co-counsel included John Edgar, Linda Taylor, David Forbes and others. Opposing Counsel, Elliot Kaplan of Robins, Kaplan, Miller & Ciresi, LLP, Minneapolis, Minnesota.

Case arose out of disputes concerning American Business Lists creation of specialized business directories using information derived from data bases of AT&T, SBC and Sprint. Litigation was focused on whether the defendants were in violation of various antitrust statutes in its refusal to provide directory information at no cost, or minimal cost, to plaintiff. American Business Lists challenged AT&T's policy of restricting access to information acquired by AT&T as part of its regulated business. The litigation in involved extensive discovery and briefing before it was ultimately settled in approximately 1985.

c) Judicial Experience

During my nearly nine years on the Circuit Court I have developed a broad understanding of Missouri substantive law and rules of evidence. I have served on the Executive Committee of Court *en banc*, chaired the communications committee and served as Family Court Administrative Judge. In 2006 and 2007 I served as "Family Court Administrative Judge." My docket included abuse and neglect hearings, including more than twenty contested termination of parental rights hearings lasting as long as five to seven days, all certification hearings of juveniles charged with serious delinquencies, and all delinquencies that would be considered felonies if handled in courts of general jurisdiction.. At juvenile court I was heavily involved in the Juvenile Detention Alternatives Initiatives (JDAI), funded by the Annie C. Casey Foundation. We worked with community and juvenile court leaders to implement programs to reduce reliance on secure confinement, improve public safety, and reduce racial disparities and bias. In part as a result of these initiatives, juvenile court reduced expenses while improving services to juveniles and families. We were recognized by the Missouri Bar for meeting our goals for timeliness. I returned to a civil/criminal docket in 2008. My cases continue to be handled in a timely manner. One of my goals is to see that each case always has a future hearing scheduled until the case is concluded. My "pending motion" list is monitored regularly and motions are handled in a timely manner.

Representative cases throughout my judicial career include the following:

Ruth Bates v. Kansas City, Missouri, et al., 0816-CV16066

Plaintiff's attorneys: Lynn Bratcher, Marie Gockle, Kristi Kingston Defendants' attorneys: Galen Beaufort, Saskia Jacobse, James C. Wirken Bates filed suit for race discrimination, hostile work environment and retaliation, arising from her former employment with the City. The case involved the alleged conduct of Mayor Funkhouser and his wife, a volunteer in his office. The litigation was complicated by the efforts of the city council to remove Ms. Squitiro, the mayor's wife, from her volunteer position. A jury pool in excess of 300 people was called for service. The trial was anticipated to last between eight and ten days. After extensive discovery, the filing of numerous motions, including motions for summary judgment, motions for partial judgment on the pleadings and extensive motions in limine. Orders were entered on each of the motions filed. On Thursday, July 23, 2009, the parties reached a tentative settlement resolving all of the issues in the litigation.

Carter v. Behrends, M.D. et al., 0516-CV16066

Plaintiff's attorneys: John Norton, Kathryn Perkins.

Defendants' attorneys: Thomas Wagstaff, Chasitie Burgess, Gregory Forney, Roger Slead, Joseph Kronawitter.

Plaintiff's decedent suffered life threatening injuries in a motor vehicle accident. He was transported to the hospital emergency room. Plaintiff sued for medical malpractice alleging that the treatment provided by the emergency room and the intensive care providers did not meet the required standard of care, resulting in his death. Case settled on about May 24, 2009, the weekend before trial.

Clarissa Wade v. Clarion Mortgage Capital, Inc. et al., 0516-CV37599

Plaintiff's Attorney: Paul K. Hentzen.

Defendant's Attorneys: Steven Aaron and Ray Sousley.

This is one of a series of cases involving Clarion Mortgage Capital's lending practices. Plaintiff filed suit claiming mortgage fraud. She entered into a construction contract with a now-deceased contractor to remodel her residence. Thereafter, the contractor assisted her in obtaining financing through two individuals who were "agents," "independent contractors" and, or "employees" of Clarion. The jury heard evidence that the work was not up to industry standards, that much of the contracted for work was not performed, and that the contractor gave "kickbacks" to the agents of Clarion. Clarion's relationship with the agents was a significant factor at trial. After a three-day trial the jury entered judgment for Wade on one count. The case is on appeal.

State of Missouri v. Shy Bland, 0516-CR04774-01

State's Attorney: Trisha Lacey, Kevin Harrell. Defendant's attorney: Theresa Lininger-Morman.

Defendant was charged with a series of rapes, sodomies, assaults and robberies involving 13 women. Bland, generally identified as the "Westport rapist" cases, was accused of sexual attacks on a number of women in the Westport area of Kansas City in the mid-1980's. The evidence that resulted in Bland's arrest was developed as a result of grant moneys used for the specific purpose of using current laboratory procedures to test DNA. Disputes at trial included challenges to the validity of "cold" DNA testing and possible contamination of DNA specimens. After a seven-day jury trial in June 2008, Bland was convicted of 12 counts of rape, 4 counts of assault, 3 counts of robbery and 5 counts of attempted rape. I believe the case is on appeal.

Stanley Brand v. K.C. Gastroenterology & Hepatology, 0716-CV20975

Plaintiff's Attorney: Sharon Coberly. Defendant's Attorney: Arthur Benson.

Plaintiff alleged discrimination when his employer advised him that he was to be moved from regular employment to an independent contractor status. Plaintiff charged that the employer attempted to force him to accept independent contractor status to save the high cost of plaintiff's health insurance. He also claimed defendant violated Missouri law by failing to offer him equal access to health insurance. On February 6, 2009, after a five day trial, the jury returned a plaintiff's verdict. That verdict is on appeal.

Laura Abrams v. Northland Cardiology, et al., 03-CV215841

Plaintiff's Attorney: Stephen Millin Jr.

Defendants' attorneys: Timothy Aylward and Jayson Ford.

Plaintiff alleged that defendant's failure to properly diagnose and treat an infection of the heart (endocarditis) led to the death of plaintiff's father. Mistrial second day of trial, on March 3, 2009, after a juror was injured during the trial.

Eddie Cluck v. Union Pacific Railroad Co., 04 -CV223710

Plaintiff's Attorney: Charles W. Armbruster. Defendant's Attorney: Michael A. Preston.

This case was filed pursuant to the Federal Employees Liability Act. Cluck was injured when he picked up a co-worker's bag and a weapon concealed in the bag discharged. Witnesses testified it was a violation of work policies to carry weapons while on duty. It was undisputed the co-worker was in violation of the work policies. There was also no

dispute that plaintiff sustained injuries, although the extent of the injuries was disputed. On November 10, 2008, after a six-day trial, the jury entered a verdict for defendant. The case is on appeal.

Kamil Razimgar v. Amy J. Baalman, 0716-CV15764

Plaintiff's Attorney: James T. Barker. Defendant's Attorney: Ben T. Schmitt.

Litigation arose as a result of an intersection collision on a limited access street near downtown Kansas City. The parties disputed the evidence as to who had the right of way. Witnesses offered conflicting evidence on the key issue of fault. On July 30, 2008, at the conclusion of a two-day trial, the jury entered a verdict finding neither party at fault.

State of Missouri v. Rashawn D. Graves, 0716-CR06633-01

State's Attorney: Theresa Crayon. Defendant's Attorney: John Cullom.

Defendant was charged with multiple robberies and attempted robberies. Issues involved the eye witness identification of the various victims at the scene and at the police station. On May 15, 2008, after a four-day trial, the jury found Graves guilty of three counts of Robbery 1st Degree and one count Attempted Robbery in the 1st Degree.

Mandeline Gray v. Yum! Brands, Inc., 0716- CV13885

Plaintiff's Attorney: Jason Osteen. Defendant's Attorney: John Cooney.

Case involved an automobile accident in which plaintiff claimed significant personal injuries. Defendant did not dispute liability. On June 25, 2008, after two day trial, jury returned a verdict for Gray in the amount of \$100,000.

Clarence Hill, et al. v. Research Psychiatric Center, et al., 01-CV225796

Plaintiffs' Attorney: Basil North. Defendants' Attorney: Craig Grimes.

Doctor and hospital were sued for medical malpractice arising from the suicide of a patient. Patient had been depressed and under the care of physician prior to his entry into the hospital. Evidence concerned whether the physician and the hospital took adequate precautions had been taken to prevent him from taking his own life. On July 24, after a four-day trial, jury returned a verdict in favor of defendants.

State v. Roy Andrews, 0716-CR02944-01

State's Attorneys: Theresa Crayon and Janette Rodecap.

Defendant's Attorney: Aremita DuPres.

Defendant charged with two counts of assault in the first degree after a shooting outside the victim's residence in which defendant was seriously injured. Trial May 5 through May 7, 2008. Mistrial entered after jury determined it was deadlocked and unable to reach a verdict. Case is scheduled for retrial this summer.

Attachment B Answer to Question 26

My family consists of educators, ministers and "joiners." My father is a minister with all that entails. We are a close family and we are committed to each other. My parents hammered us with values like fairness, respect for others, dedication to family and community, and education. Hopefully, I have carried these values with me.

In addition to my professional and community activities, I am the family historian. Especially in winter months, you can find me "googling" away my weekends, reading about our German relatives in World War II or about my grandmother's family in 1800's New York.

As I have discussed my interest in moving to the Western District Court of Appeals, friends have suggested to me that the work of appellate courts is tedious. I love the pace and excitement of the trial bench, but have no reservations that the work of the Western District is equally rewarding in a totally different and satisfying way.

I appreciate your consideration for a position on the court.